

## **REMARKS**

Applicants reply to the final Office Action dated February 1, 2011 within two months. Claims 1-25 are pending in the application and the Examiner rejects claims 1-25. Support for the amendments may be found in the originally-filed specification. No new matter is entered with these amendments. Applicants respectfully request reconsideration of this application.

### **Rejections under 35 U.S.C § 103**

The Examiner rejects claims 1-25 under 35 U.S.C. § 103(a), as being unpatentable over Basch et al., US Patent No. 6,658,393, ("Basch"), in view of Lawrence, U.S. Publication No. 2003/0225687 ("Lawrence") and AAPA. Applicants respectfully disagree with these rejections, but Applicants present claim amendments in order to clarify the patentable aspects of the claims and to expedite prosecution.

First, the Examiner asserts that the feature of "transmitting, by the computer system, an approval of the transaction or referral of the transaction for further identification based upon the output of the fraud risk model" are disclosed by Official Notice (or "since this is common sense"). Applicants disagree that the Official Notice is proper. Simply because travel tickets may have been purchased that included a passenger name, travel date, route, and/or electronic ticket indicator, there is no assertion by the Examiner that such items were ever ***used as part of a real-time fraud-risk evaluation***. The Examiner states that "Lawrence discloses a travel related risk management clearinghouse associated with travel arrangements. ([0007], [0008], and 0011]-II.1-3." However, Applicants respectfully assert that such an assertion by the Examiner is not unquestionably well known such that it would meet the requirements of Official Notice.

Further, Applicants respectfully request that, if the Examiner maintains the asserted Official Notice (or the "since this is common sense") in any further official action, that the Examiner provide a reference evidencing that such features were known to those skilled in the art *at the time the invention was made*. As stated in the M.P.E.P., "[i]t is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based." *See In re Zurko*, 258 F.3d 1379, 1385 (Fed. Cir. 2001), *M.P.E.P. § 2144.03(A)*. "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known."

*M.P.E.P. § 2144.03(A)*. Accordingly, Applicants contend that the record fails to establish that the asserted Official Notice is capable of the required instant and unquestionable demonstration of being well-known at the time the invention was made. Absent the required support for the asserted Official Notice (or "since this is common sense"), Applicants respectfully contend that the obviousness rejection lacks the required foundation and therefore requests withdrawal of that rejection.

The Examiner is reminded "The examiner bears the initial burden of **factually supporting** any *prima facie* conclusion of obviousness." (emphasis added) MPEP 2142. "With regard to rejections under 35 U.S.C. 103, the examiner must provide evidence which as a whole shows that the legal determination sought to be proved (i.e., the reference teachings establish a *prima facie* case of obviousness) is more probable than not." *Id.* Applicants assert that the Examiner has not provided sufficient evidence to provide a *prima facie* case of obviousness. Specifically, Applicants note that the Examiner has not address many of Applicants' arguments specifically, "simply because travel tickets may have been purchased that included a passenger name, travel date, route, and/or electronic ticket indicator, there is no assertion by the Examiner that such items were used as transaction variables as part of a real-time fraud-risk evaluation."

Basch generally teaches a "method for predicting financial risk," (abstract). However, Basch is silent as to as "processing, by the computer system, the passenger name on the travel ticket, a travel date, a routing description of the travel ticket, an electronic ticket indicator and transaction variables through a fraud risk model to determine a probability of fraud for the transaction" recited by independent claim 1 (emphasis added, as amended) and similarly recited by independent claims 16, 24 and 25. Combination of Basch with the other cited references does not cure this deficiency.

Lawrence generally teaches "computerized methods and system for facilitating analysis and quantification or risk associated with a travel arrangement" (abstract). Specifically, Lawrence is directed to "generating in the computer system a risk quotient indicative of a quantitative amount of at least one of: reputational risk; physical risk, legal risk and regulatory risk; and the risk quotient is based upon at least one of: the risk criteria associated with the data descriptive of a travel arrangement; a weighted value of the data associated with such risk criteria; and the content of an informational artifact associated with the data descriptive of a travel arrangement." (emphasis added) "Reputational risk; physical risk, legal risk and

regulatory risk” is not analogous to a probability of fraud. In fact, Lawrence is silent as to “a probability of fraud”. Moreover, Lawrence is silent to “determine(ing) a probability of fraud for the transaction” based on “the passenger name on the travel ticket, a travel date, a routing description of the travel ticket, an electronic ticket indicator and transaction variables.” Thus, similar to Basch above, Lawrence is also silent as to as “processing, by the computer system, the passenger name on the travel ticket, a travel date, a routing description of the travel ticket, an electronic ticket indicator and transaction variables through a fraud risk model to determine a probability of fraud for the transaction” recited by independent claim 1 (emphasis added, as amended) and similarly recited by independent claims 16, 24 and 25. Combination of Lawrence with the other cited references does not cure this deficiency.

As such, the cited references and alleged AAPA alone or in combination do not disclose or contemplate “processing, by the computer system, the passenger name on the travel ticket, a travel date, a routing description of the travel ticket, an electronic ticket indicator and transaction variables through a fraud risk model to determine a probability of fraud for the transaction,” as recited by independent claim 1 (as amended) and similarly recited by independent claims 16, 24 and 25.” Accordingly, Applicants respectfully request that the rejection be reconsidered and withdrawn.

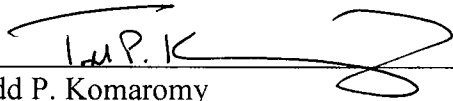
Dependent claims 2-15, and 17-23 variously depend from independent claims 1 and 16. Therefore, Applicants assert that dependent claims 2-15, and 17-23 are patentable for at least the same reasons stated above for differentiating independent claims 1, 16, 24 and 25, as well as in view of their own respective features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 2-15, and 17-23.

When a phrase similar to “at least one of A, B, or C” or “at least one of A, B, and C” is used in the claims or specification, Applicants intend the phrase to mean any of the following: (1) at least one of A; (2) at least one of B; (3) at least one of C; (4) at least one of A and at least one of B; (5) at least one of B and at least one of C; (6) at least one of A and at least one of C; or (7) at least one of A, at least one of B, and at least one of C.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. Applicants invite the Examiner to telephone the undersigned, if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

Dated: March 31, 2011

By:   
Todd P. Komaromy  
Reg. No. 64,680

**SNELL & WILMER L.L.P.**  
400 E. Van Buren  
One Arizona Center  
Phoenix, Arizona 85004  
Phone: 602-382-6321  
Fax: 602-382-6070  
Email: [tkomaromy@swlaw.com](mailto:tkomaromy@swlaw.com)